

THE QUALITY CARE FOR NURSING HOME RESIDENTS AND WORKERS DURING COVID-19 ACT OF 2020 (H.R. 6698)

CONGRESSWOMAN JAN SCHAKOWSKY (D-IL)
SENATORS CORY BOOKER (D-NJ) & RICHARD BLUMENTHAL (D-CT)

Section by Section Summary

Sec. 1. SHORT TITLE

Sec. 2. IMPROVING QUALITY OF CARE IN SKILLED NURSING FACILITIES AND NURSING FACILITIES DURING COVID-19 EMERGENCY PERIOD

QUALITY OF CARE REQUIREMENTS

- Requires that each facility have a full-time infection preventionist with a specified level of training and experience as intended in CMS' 2016 "Reform of Requirements for Long-Term Care Facilities" that the Trump Administration proposed rolling back through a proposed rule in July 2019
- Guarantees a resident's right to return to a nursing facility if a resident chooses to move and live with a family member for any duration of the Public Health Emergency
- Prohibits transfer of residents or discharge to a new facility without notification and sign off from a resident or representative
- Requires testing for residents each week—if test kits are not available, facility must screen residents for relevant symptoms and report lack of availability and all steps taken to procure tests to state survey agency daily until tests are available
- Requires facilities to ensure adequate numbers of staff to assist residents in making weekly social contact with family members and friends through virtual visitation means

WORKER SAFETY REQUIREMENTS

- Requires that facilities establish most up-to-date worker training around PPE usage, COVID-19 transmission, and Bloodborne Pathogens Standard, at no cost to the employee
- Requires that facilities provide sufficient PPE for all employees and report any predicted PPE shortages that prevent allow them from doing so to state health departments at least 24 hours before shortage is expected to occur
- Requires that facilities offer at least two weeks of paid sick leave to each employee
- Requires testing for staff before entering facility before each shift—if test kits are not available, facility must screen staff for relevant symptoms and report lack of availability and all steps taken to procure tests to state survey agency daily until tests are available

TRANSPARENCY REQUIREMENTS

- Requires facilities to report to state survey agencies, CDC, and CMS, every 24 hours:
 - Number of confirmed and suspected cases of COVID-19 among residents and staff, including age and race/ethnicity
 - Number of COVID-19 related deaths of residents and staff, including age and race/ethnicity

- Number of total deaths (not just COVID-19 related)
- Amount of PPE available and projected need
- Staffing data through the Payroll-Based Journal
- Number of residents and staff who have been tested
- Requires facilities to inform residents, their representatives, and workers within 12 hours of the occurrence of any fatality or a single confirmed infection of COVID-19, and within 72 hours of new-onset of respiratory symptoms among three or more residents or staff
- Requires CDC and CMS to coordinate to publicly post HIPAA-compliant information on CDC's COVIDView website and CMS's Nursing Home Compare website as soon as possible, but not later than 24 hours after receiving the information
- Requires facilities to post staffing information and a notice upon one confirmed or suspected case of COVID-19 at entrance(s) for the duration of the emergency

DESIGNATION OF COVID-19 FACILITIES

- Requires CMS to develop criteria for a facility to be designated COVID-19-only, including 24/7 RN presence
- Requires state survey agencies to permit only facilities that meet that criteria to be COVID-19 only

SURVEYS, EDUCATION, TRAINING

- Requires states to dedicate adequate surveyor resources to promptly investigating complaints and ensuring surveyors have adequate PPE
- Requires state survey agencies to remotely monitor all facilities with COVID-19 cases and conduct a surprise inspection within 72 hours if ratio of fatalities to confirmed/suspected COVID-19 cases at a facility exceeds 5% or if an urgent COVID-19-related, staffing, or immediate jeopardy complaint arises

CIVIL MONEY PENALTIES

- Requires \$10,000 per day Civil Money Penalties (CMPs) charged to operator of a facility for each violation of a new provision implemented by this legislation, or for reporting inaccurate information

Sec. 3. STATE STRIKE TEAMS FOR RESIDENT AND EMPLOYEE SAFETY IN SKILLED NURSING FACILITIES AND NURSING FACILITIES

- Authorizes \$500 million to establish expert strike teams for resident and worker safety, with allocation based on highest need, to assist in separating exposed residents and staff from other healthy workers and residents, supervising testing, ensuring whistleblower protections are still being enforced, other actions as necessary
- Strike teams must be deployed by state survey agencies to a facility within 72 hours of three or more suspected or confirmed cases being reported
- Strike teams must include members of the National Guard, public health officials from State and local health departments, experts in geriatrics and long-term care medicine, representatives of residents, and representatives of workers

Sec. 4. REINSTITUTION OF PRE-PANDEMIC RULES IN SKILLED NURSING FACILITIES AND NURSING FACILITIES AFTER THE COVID-19 EMERGENCY PERIOD

- Requires CMS to reinstitute Requirements of Participation if the Secretary deems it necessary before the suspension of the Public Health Emergency
- Requires CMS to develop a plan for completing surveys that were waived or postponed during the emergency period
- Requires CMS to require training and certification of any nurse aides that have been allowed to work without completing this training and certification during the emergency period as soon as possible and no later than 15 days after the emergency period

Sec. 5. GUIDANCE FOR OTHER RESIDENTIAL CARE FACILITIES

- Requires the Secretary to issue public guidance to congregate living facilities outside of HHS jurisdiction on recommendations to facilitate virtual visits, to adequately protect workers, and to ensure infection control and prevention